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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/061,772 | 02/01/2002 | Hiroji Masuda | 72934 | 2209 |
| 22242 | 7590 | 11/10/2003 | EXAMINER | |
| FITCH EVEN TABIN AND FLANNERY 120 SOUTH LA SALLE STREET SUITE 1600 CHICAGO, IL 60603-3406 | | | | HELLNER, MARK |
| ART UNIT | | PAPER NUMBER | | |
| | | 3663 | | |

DATE MAILED: 11/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|--------------------------|------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/061,772 | MASUDA ET AL. |
| | Examiner Mark Hellner | Art Unit 3663 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-107 is/are pending in the application.
 - 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) 1-12,31-70,76-87 and 96-107 is/are allowed.
- 6) Claim(s) 13,15-17,71-74,88,89 and 93 is/are rejected.
- 7) Claim(s) 14,18-30,75,90-92,94 and 95 is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on ____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-12 are allowed because there is no teaching or suggestion that the absolute difference in wavelength number of the pump light beams be in the range of 125 – 290 cm⁻¹.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13 and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 411204859A.

Figure 2 teaches the concept of connecting a tellurite fiber (11) in series with a fiber having a different composition (12) both fibers have pumping sources (5). The use of silica in the second fiber would have been obvious because silica was a known component of amplifying fibers at the time of the present application.

Claims 14 and 18-30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 31-37 are allowed because there is no teaching or suggestion of a plurality of tellurite and silica fibers connected in series adjacent each other.

Claims 38-44 are allowed because there is no teaching or suggestion of pumping the silica fiber with a second and third source.

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Claims 53-70 are allowed for at least the reasons applied to claims 31-44.

Claims 71-74 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 411204859A.

Claims 71-74 would have been obvious for the reasons applied to claims 13 and 15-17 because erbium was a known dopant of amplifying fibers at the time of the present application.

Claim 75 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 76-82 are allowed because there is no teaching of the wavelength selective splitter.

Claims 83-87 are allowed because there is no teaching or suggestion of tellurite, thulium and silica fibers connected in series.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 88 is rejected under 35 U.S.C. 102(b) as being anticipated by Snitzer.

Figure 6 shows the limitations recited by claim 88.

Claim 89 is rejected under 35 U.S.C. 103(a) as being unpatentable over Snitzer.

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1000 ppm is a concentration that would have been known to induce amplification in the erbium doped fiber taught by Snitzer.

Claims 90-92 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 93 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP 411204859A.

Claim 93 is rejected for the reasons applied to claims 13 and 15-17.

Claims 94 and 95 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 96-102 are allowed because there is no teaching or suggestion of first and second tellurite fibers pumped by first to sixth sources.

Claims 103-17 are allowed for at least the reasons applied to claims 38-52.

Any inquiry concerning this communication should be directed to Mark Hellner at telephone number 703 306 4155.

Mark Hellner

November 3, 2003

MARK HELLNER
PRIMARY EXAMINER

3663

Mark Hellner